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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,424	07/18/2000	Yoichi Taya	49979	9451

21874 7590 04/07/2003

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EXAMINER

PADMANABHAN, KARTIC

ART UNIT	PAPER NUMBER
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1641

DATE MAILED: 04/07/2003

19

17

Advisory Action

Application No.

09/618,424

Applicant(s)

TAYA ET AL.

Examiner

Kartic Padmanabhan

Art Unit

1641

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 8 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 09 January 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): ____.
4. ☐ Newly proposed or amended claim(s) ____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☒ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 16-23.

Claim(s) withdrawn from consideration: none.

8. ☐ The proposed drawing correction filed on ____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). ____.
10. ☐ Other: ____


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Continuation of 2. NOTE: the new limitation in claim 16 of the antibody not recognizing the unacetylated substrate to any appreciable degree raises new issues that would require further search and consideration. This limitation clearly changes the scope of the claims. The claims previously recited absolutely no binding whatsoever between the antibody and unacetylated substrate, but the new limitation allows for some degree of binding, which has never been considered or searched. Further, the exact meaning of the term "appreciable degree" has yet to be established..

Continuation of 5. does NOT place the application in condition for allowance because: of reasons set forth in the final rejection mailed on 7/3/02. Applicant's arguments that the antibodies of Lill et al. bind unmodified p53 is not convincing because applicant has only mentioned two of the antibodies of the Lill reference, pAb421 and pAB1801, when the reference teaches other antibodies for use with their method. Further, the exhibits in Appendices A and B in support of applicant's contentions are not being considered because they are not directed SOLELY to issues newly raised by the examiner in the Final rejection. However, even if they were considered, they are similarly only directed to two of the antibodies of the Lill reference. Applicant's argument with respect to the Poethke reference relies on the premise that Lill et al. does not form the basis of a proper 103 rejection, a position that has already been addressed.